

# EXHIBIT 5

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1 administration is. Maybe not word for word, but I  
2 know how it's supposed to be operated in any facility  
3 in the United States.

4 Q. So am I understanding correctly that you  
5 -- your methodology was to compare the written  
6 policies in place at MSI and then you compared those  
7 to some specific generally accepted written standards  
8 in the correctional field; is that correct?

9 MR. WHEATON: Objection. Form.

10 THE WITNESS: Yes. Plus the visit,  
11 operational assessment of the facility.

12 Q. BY MR. KUHN: Where in your report --  
13 I'm sorry. Go ahead, sir.

14 A. You can't take this policy and say, okay,  
15 that's what policy says. I'm sure they did. You  
16 have to take what's the standard good practice for  
17 operating a correctional facility. It involves a  
18 multitude of things.

19 My knowledge of national standards, their  
20 own policy they have in place which were appropriate,  
21 and then what I physically saw when I walked around  
22 the facility.

23 Q. Well, where in your report do you apply  
24 any specific written correctional industry standards  
25 to the conditions at MSI?

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1           A.    I don't believe I specifically referenced  
2   any -- the specific areas, but I was able to validate  
3   what I know is a required practice in a jail in my  
4   report.

5           **Q.    But it's correct to state that you didn't**  
6   **set forth in your report any discussion of generally**  
7   **accepted written standards in the correctional field,**  
8   **is it not?**

9           A.    I may not have referenced this  
10   specifically for each area, but it is in my report,  
11   starting in paragraph 3.

12          **Q.    Okay. Let's -- Where?**

13          A.    Okay. Let's go to the first sentence.  
14   Mr. Carson will validate the facility has an  
15   onsite -- that should be duty officer not office  
16   program.

17                And then if you keep going, the system  
18   has -- the facility has assessment for inmates to  
19   report issues and concerns in written form.

20          **Q.    Right. So, yeah. Let me stop you there.**  
21                I'm looking -- Yeah. I'm looking for a  
22   **place in your report where you -- where you apply**  
23   **specific generally accepted written standards in the**  
24   **correctional field to the conditions at MSI, not --**  
25   **not general sort of conclusions, but specific written**

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1 standards. Is there anywhere in your report that you  
2 do that?

3 MR. WHEATON: Objection to form.

4 THE WITNESS: There's specific areas.  
5 It's all over my report.

6 Q. BY MR. KUHN: Okay. Can you direct me to  
7 one instance of where you cite to a specific written  
8 standard in the -- in the correctional field and  
9 apply that specific standard to the conditions at  
10 MSI?

11 A. No, I don't have a specific, but their  
12 own policies identify that. That's why I wrote it  
13 that way.

14 Q. Okay. Is -- then, am I correct that the  
15 opinions contained in your report are based at least  
16 primarily, then, on your own experience as opposed to  
17 being based on specific standards in the correctional  
18 field?

19 A. No. That isn't accurate. Because that's  
20 just one part of it.

21 My own knowledge of correctional  
22 management, jail management, prison management, their  
23 own policies at MSI's policies is what's referenced  
24 ACA standards. But if you're asking me specific  
25 policy or specific ACA standards, no, I don't have

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1 that identified in my report.

2 Q. Okay. If you turn to page 6 of your  
3 report, the second to last paragraph, second  
4 sentence.

5 A. Okay.

6 Q. Second to last second sentence. So right  
7 here. There you state, "I did not find any policy to  
8 be inadequate and/or not in accordance with good  
9 standard practice or American Correctional Associate  
10 standards," correct?

11 A. Yes.

12 Q. What specific ACA standards are you  
13 referring to there?

14 A. All the standards that apply to managing  
15 a jail that I reference in the rest of the paragraph.

16 Q. Where in the rest of the paragraph is  
17 there a -- is there a reference to any specific ACA  
18 standard?

19 A. Well, I don't put the standard by number  
20 or title. But the policy on use of force, applicable  
21 ACA standard use-of-force protocol, after-action  
22 review and follow-up corrective action. And then I  
23 identify every correctional facility should have a  
24 system for use of force when deemed appropriate,  
25 follow-up review procedures, and correction action

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1 steps. And MSI had all these in place upon my  
2 review.

3 **Q. Are there any different ACA standards for**  
4 **prisons versus jails?**

5 A. Yes. But they still have to have the  
6 standards in place for everything that's crucial, as  
7 I referenced here. Use of force has to be --  
8 grievance process, sanitation, whatever the case  
9 might be, inmate management, escape prevention, they  
10 all need to have those in place, whether it's a jail  
11 or a closed facility or minimum security facility or  
12 what. They have to have all of those procedures and  
13 policies in place.

14 **Q. Well, when you refer to the ACA standards**  
15 **here, are you referring to the standards for prisons**  
16 **or the standards for jails?**

17 A. Both.

18 **Q. Okay.**

19 A. But in this case, it is a jail.  
20 Generally, you want to have those policies and  
21 procedures in place no matter what kind of facility  
22 you have.

23 **Q. All right. Turning to page 5 of your**  
24 **report.**

25 A. Okay.

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1 Q. In the second paragraph.

2 A. Okay.

3 Q. You state that when you visited MSI on  
4 March 24th, 2020, you initially met with Jeffrey  
5 Carson, who is the superintendent, correct?

6 A. Yes. Correct.

7 Q. And in the next paragraph, you state,  
8 "Mr. Carson was able to validate for me the facility  
9 had an onsite duty office program where in a" --

10 A. I'm sorry. But that's officer. That's  
11 my error.

12 Q. Okay. All right. So I'll start over.

13 "Mr. Carson was able to validate for me  
14 the facility had an onsite duty officer" -- is what  
15 it was meant to say -- "program wherein a  
16 manager/supervisor was assigned on a weekly basis to  
17 visit all areas of the facility for policy and  
18 standard compliance, ensuring inmate issues are  
19 addressed, and any significant concerns are  
20 appropriately reported to upper management," correct?

21 A. Correct.

22 Q. How did Mr. Carson validate those things  
23 for you?

24 A. By telling me how they had the duty  
25 officer program in place, and it was totally

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1 consistent to what we had in the Bureau of Prisons as  
2 well as -- and all the Bureau of Prisons policies as  
3 theirs are all based on ACA standards and jail  
4 standards.

5 **Q. Okay. What did Mr. -- what did you do to**  
6 **confirm if Mr. Carson's statements were consistent**  
7 **with the actual practice at MSI?**

8 A. Talking to the staff, department heads,  
9 supervisors, unit managers, correctional officers.

10 **Q. Did you review any relevant records to**  
11 **determine if the practice was consistent with the**  
12 **policies that Mr. Carson described?**

13 A. Yes. When I walked around the facility,  
14 I talked to various officers in the housing units,  
15 and they were able to provide me with different forms  
16 and how they report issues that they can't correct on  
17 site and they refer it up the chain to their  
18 lieutenant, first line supervisor, or the department  
19 head, or higher than that if it has to go to maybe a  
20 deputy warden or even the superintendent.

21 **Q. So the next two sentences of your report**  
22 **state, "The facility has a system for inmates to**  
23 **report issues and concerns in the written form,**  
24 **administrative remedies, and, of course, verbally to**  
25 **correctional staff. This system allows staff to**